

Docket No. 20238
Serial No.: 10/729,408

REMARKS

Claims 1, 2, 4, 5, 7 – 10, 13 – 15, 17, 18, 20, 24 – 26, 28, 31, 33, 34 and 36 have been rejected under 35 USC 102 as anticipated by Meier (US patent 6,458,106). Applicants believe this rejection is moot in view of the amendments to the claims.

Claims 3, 6, 21 – 23, 27 and 35 18 – 23 have been rejected under 35 USC 103 as unpatentable over Meier (US patent 6,458,106) in view of Booth (US 6,685,665). Applicants assume that this rejection applies to all claims based upon the amendments to the claims.

Meier provides a catheter having a venting lumen in addition to a first lumen. The first lumen 46 provides for feeding a patient while the venting lumen allows for the release of gas from the stomach. Meier does not provide for a venting mechanism comprising a gas permeable, liquid impermeable material.

Booth concerns a cannula assembly having a filter. The cannula is designed for use in surgeries like laparoscopic and endoscopic surgeries, in which gas is introduced into the abdominal cavity to inflate the abdomen. The surgeries often involve the use of cutting devices that produce "smoke", that may contain toxic or noxious materials (Background). Booth's cannula filter is designed to filter gas to be introduced to the abdomen (insufflation gas) and/or gas released from the abdomen (de-sufflation gas) to keep undesirable materials from being introduced into the abdomen and to keep released gas from becoming a health hazard for medical personnel, respectively. Booth's filter is designed to catch particulates and odors and remove them from the gas stream.

Applicants' mechanism, perhaps more properly termed a "separator", is designed to allow for the escape of gas but not liquid from the body. There is no filtering of the gas stream as in Booth. Particulates and odors are not retained in Applicants' venting mechanism. The mechanism is only a means of separating liquids and gas so that liquids do not accompany the gas stream out of the body. In addition, Booth's filter is designed to handle fairly large volumes of gas in

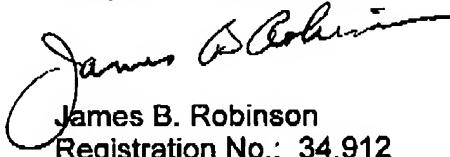
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either direction and so is a relatively large device. Applicants' mechanism is quite small since it is designed to separate liquid from gas, not to filter the gas (see Figure 2, item 124) which requires a fairly large filter area. Applicants' venting mechanism is clearly different in structure and function from Booth's filter and as such Booth cannot serve to make Applicants' device obvious.

The claims as currently written clearly indicate that Applicants' invention separates liquid from gas. As discussed above, neither Meier nor Booth teach or suggest such a device. Combining the two cited pieces of art, even if possible, would likewise not result in the production of Applicants' invention.

Applicants respectfully request reconsideration of all rejections and allowance of the Application, which should now be in condition for allowance. The Examiner is encouraged to contact the undersigned at his convenience should he have any questions regarding this manner or require any additional information.

Respectfully submitted,


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